

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

BAC HOME LOANS SERVICING, L.P.
f/k/a COUNTRYWIDE HOME LOANS
SERVICING, L.P.,

Plaintiff,

v.

Civil Action No.: 11-1064

HAROLD G. JONES, BARBARA E. JONES,
EMMA P. BEAGLE, and
THE UNITED STATES OF AMERICA,

Defendants.

REPORT AND RECOMMENDATION

On referral for report and recommendation is Plaintiff's motion for a default judgment against Defendants Harold G. Jones, Barbara E. Jones and Emma P. Beagle [D.E. 44].

As brief background, Plaintiff has amended its Complaint seeking relief against the individual Defendants Harold G. Jones, Barbara E. Jones and Emma P. Beagle in the form of an action for judicial foreclosure on certain property due to the Defendants' default on their promissory note and deed of trust.¹

This property is more particularly described as:

A certain tract or parcel of land located in the Thirteenth Civil District of Henry County, Tennessee, and being more particularly described as follows:
Commencing at a set iron pin in the right of way of Cypress Creek Road, said pin being located North 89 degrees 02 minutes 25 seconds West a distance of 328.96 feet from the Northeast corner of the tract of which this is a part; runs thence with the South right of way of Cypress Creek Road with a curve to the left, radius of 240.07, an arc distance of 147.55; South 42 degrees 16 minutes 35 seconds West 154.94 feet to the TRUE POINT OF BEGINNING, being a set iron pin in the

¹ This property is also is subject to a dispute between the United States (SBA) and Plaintiff as to priority of deeds of trust.

south right of way Cypress Creek Road, the Northern most Northeast corner of the herein described tract; thence with a severance line: South 36 degrees 12 minutes 34 seconds East 325.43 feet to a set iron pin; South 53 degrees 47 minutes 26 seconds West 141.61 feet to a set iron pin; North 36 degrees 12 minutes 34 seconds West 309.59 feet to a set iron pin in the South right of way of Cypress Creek Road, 25 feet from centerline; thence with the South right of way of said road, North 50 degrees 52 minutes 58 seconds East 85.16 feet; North 42 degrees 16 minutes 35 seconds East 57.72 feet to the TRUE POINT OF BEGINNING and containing 1.024 acres, more or less; bearings are record, survey by Lucille D. Smith, R.L.S., Tennessee Reg. No. 1508. This tract of land is also known as Lot No. 14 of the Lough Ree Hill Subdivision, plat of which is to be recorded in the Register's Office of Henry County, Tennessee. Tax Parcel No. 23-6.00

These Defendants did not answer the original nor the Amended Complaint, nor have made any appearances in this case. The Clerk's Entry of Default against these Defendants was entered on January 28, 2013 [D.E. 43]. Plaintiff now moves for default judgment in accordance with the Federal Rules of Civil Procedure. *See* Rule 55

If a defendant fails to plead or defend as required by the Rules, the clerk or judge may enter default upon a plaintiff's request. Rule 55(a); *Shepard Claims Service, Inc. v. William Darrah & Associates*, 796 F.2d 190, 194 (6th Cir. 1986) (When a defendant fails to file a responsive answer, he is in default, and an entry of default may be made by either the clerk or the judge.).

This Court makes the report and recommendation that the U.S. District Court grant this motion for default judgment against the Defendants Harold G. Jones, Barbara E. Jones and Emma P. Beagle for (1) default judgment declaring any right, title or interest in and to the subject property held by Defendant Emma P. Beagle is inferior to the interest of the Plaintiff's and the SBA's deeds of trust and (2) default judgment of foreclosure on the subject property due to the individual Defendants default on their loans to the Plaintiff and to the SBA, that the

property be sold at auction, that the Plaintiff's and the SBA's liens attach to the proceeds and that the proceeds be deposited with the Court for distribution once lien priorities are determined as between the Plaintiff and the SBA.

Respectfully Submitted,

s/Edward G. Bryant
EDWARD G. BRYANT
UNITED STATES MAGISTRATE JUDGE

Date: February 19, 2013

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT AND RECOMMENDATIONS MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT AND RECOMMENDATIONS. 28 U.S.C. § 636(b)(1). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.